



CITY COUNCIL RESPONSE TO ANONYMOUS FLIER ABOUT TAVACI DEVELOPMENT

Thank you for taking the time to communicate your concerns. We suspect you were motivated to do so by the anonymous flier you received in the mail. Frankly, given the content of that flier, we are surprised we have not had a more substantial response. If we were doing anything close to what the flier represents, every citizen should be alarmed.

The allegations in the flier you received are patently false. The flier is an ill-conceived attempt to alarm the citizenry by grossly misrepresenting the facts and the City's intent. While we believe we know who is behind this effort, it's unfortunate that they chose to remain anonymous in the general mailer to the community. We do not think these types of anonymous communications enhance public dialog. They are, instead, intended to stir emotion instead of reason.

Let us be very clear about several of the points in the flier:

- The flier indicates the City is about to vote to grant Tavaci developer, Terry Diehl, the right to build "Pinnacle Highlands-like" developments. **This is not true. The City Council has no vote pending.** Any rezoning of the property cannot occur until after (a) an ordinance is passed by the City Council (following recommendation by the City's Planning Commission) creating a new zone; (b) the City's general plan is amended by the City Council (following recommendation by the Planning Commission) to change the general plan designation of the Tavaci property; and (c) the City Council agrees to rezone the property, following application by the developer and recommendation by the Planning Commission. Pursuant to Utah law, each step of that process requires, and will include, a properly-noticed public hearing before the Planning Commission where citizens can express their views on the propriety of the anticipated new zoning ordinance, general plan amendment or rezone. Presently, the City is drafting an ordinance for the Planning Commission to review. However, no vote is imminent or even scheduled on either the ordinance, the general plan amendment or any rezoning affecting the Tavaci property.
- The flier reports that the City is planning to grant 4.2 million square feet of development, equivalent to eight times what is at Pinnacle Highlands. This is patently false and we believe the publishers of this flier know that. The City Council has never considered such a proposal nor has the developer ever advanced such a proposal. It is a tortured and extreme misinterpretation by the

- publishers of the flier calculated for shock value. To represent that the City Council is ready to vote on such a proposal implies that such a proposal exists and that we are prepared to act on it. This is absolutely untrue.
- The flier suggests the City Council is about to ignore the recommendations of an advisory citizen's committee empanelled at the City Council's request. Instead, we believe that we are following almost all of the advisory committee's recommendations. The citizen's committee performed a valuable service for which we are grateful. We believe their recommendations, for the most part, were valid. However, they were never intended to be binding on the City Council, but rather were advisory in nature. We are accepting most of that advice and are working to comply with the spirit and the letter of that advice as much as possible. (See more below).
 - The flier characterizes the City's work on this issue as a "bail-out." That is an effective sound byte, but, again, it is a distortion of the facts. The City's motivation has nothing to do with any support for the developer or any intent to bail out Mr. Diehl. Instead, the City is endeavoring to find a way to reduce the visual impact of the development, regardless of who the developer is. Besides, any property owner may pursue a zoning change, ordinance change or other land use change for their property. The City's obligation is to ensure due process, and whether we like the development or the developer is irrelevant. Utah law is clear that we must allow any land use application due process and fair consideration. Some feel that the City should just deny the application out of hand, but if the City were to take the approach of denying due process based on whether we liked the developer or the development, every land owner and citizen has their property rights eroded and the City would constantly be embroiled in lawsuits alleging City violation of Utah laws governing land use and development and protecting property rights.
 - **THE CITY IS NOT HOLDING A MEETING ON JUNE 2ND AT THE COTTONWOOD HEIGHTS REC CENTER.** Some thought that the reference to that meeting in the flier concerns a public comment session with the City Council. We do not know what this meeting is and assume it is being organized by the publishers of the flier.

We regret that the publishers of this flier felt it necessary to misrepresent the facts and try to alarm the citizenry. They requested you copy them on your opposition so they can show that there is opposition to this development. If the development was as represented in the flier, then indeed there should be opposition – strong opposition. But once you have had a chance to understand the facts, we hope that you will be somewhat relieved to learn that we continue to have the best interests of the citizens in mind.

Here is what we are doing. The developer approached the City over a year ago to explore other land uses for the property. **Presently, the entitlements granted by SL County, prior to the City's incorporation, allow the construction of 43 mansion homes on the 47 acres of property. These homes will rise up to 35 feet high, and likely will be very large in terms of square footage. The visual impact of these homes will be dramatic as they dot the hillside and ridgeline of the property, attempting to build at the**

highest, most visible points of the property, which will afford dramatic views from the homes, but also will be extremely visible from everywhere else.

The developer's desire to change the land use and increase density has provided an opportunity for the City to negotiate for a less visually impactful development. Recommendations by the citizen's advisory committee included disallowing commercial uses and limiting density to either the 43 homes or a single family residence subdivision equivalent to the Prospector or Top of the World subdivisions across the canyon from Tavaci. The density of those projects is approximately 4-5 units/acre, meaning about 200-300 homes on the 47 acre Tavaci property. In addition, the citizen's advisory committee suggested offering the developer up to a 25% density bonus for decreasing the height of the structures and moving them to less visually impactful locations on the property.

Our goal is to reduce the visual impact of this development as much as possible. We believe that is achievable given the terrain of the property, which includes a significant "dip" East of the ridgeline but West of the hillside. Further, although the current entitlement for 43 homes would have a significant visual impact, the creation of a new subdivision of 200-300 stand-alone, typical single family homes could be even more impactful. However, following the density equivalents of the single family subdivision, we are considering making condominiums optional in order to better cluster the development and conceal it even more from view. To do so could include allowing some four story structures that would rise approximately 50 feet, or 15 feet higher than the current entitled 35 foot structures. However, their placement on the property would be limited to specific locations so that the elevation of the top of these structures would be lower than the homes currently approved.

Furthermore, we would require that structures on the ridge be limited to a 25 foot height limit instead of the currently entitled 35 feet, and would require those structures to be set back further from the ridge than is currently permitted, all of which will significantly reduce their visual impact.

Ironically, the allegations of the flier are exactly the opposite of what we are trying to do. Would the current considerations allow more density for the developer? Yes, but no more so than would be allowed under the recommendations of the citizen's advisory committee which was based on the density of the residential subdivisions to the south of Tavaci. Would the current considerations result in a smaller visual footprint? Yes, they would. The citizen's advisory committee determined that most detrimental effects of higher density for Tavaci could be mitigated except the effect on the viewsheds. We believe the limitations being considered as part of the new ordinance have the potential to significantly improve the viewsheds for the canyons. Those facts directly controvert the assertions of the flier.

Some maintain that Mr. Diehl is not entitled to any concessions, believing that he should be required to live with what he has. We understand that sentiment, especially given the resentment by many for the way in which it is perceived he was granted the original entitlements by Salt Lake County before the City's incorporation. However, it is not our

intent to be punitive, but rather to be opportunistic. The developer's desire to change his entitlements provides the City an important opportunity to re-define how those entitlements are granted and to reduce the visual impact of the development by requiring significant clustering of the project and limiting heights.

Should no change be allowed, and Mr. Diehl fail, some will take a sense of justice in that failure. However, the Tavaci property will then be acquired by another developer, who will just build on the investments made by Mr. Diehl, and the City will still end up with the 43 mansion homes dotted all over the property, in its most visible areas, in order to take advantage of the views. Therefore, we feel that it is imprudent to allow a punitive attitude toward this developer blind us to opportunities to dramatically improve the visual impact of the development. We believe that by incentivizing clustering of homes, increasing set backs, and modifying height standards based on relative visual impacts, it is possible to reduce the visual impact while reasonably increasing density for the developer -- even if not to the degree he proposes. The citizen's advisory committee maintained that all other impacts of increased density, including traffic impacts, can likely be mitigated. Nevertheless, those mitigations could ultimately impose further restrictions on the development.

As mentioned above, presently a new ordinance is being drafted for consideration by the Planning Commission. We invite your review of the ordinance when it is presented to the Planning Commission, and will welcome your comments about it. You will see that the ordinance presents nothing even close to the gross misrepresentations of the flier. Had the publishers of the flier waited for the publication of the ordinance for review, they may not have felt the need to resort to the shock tactics employed by the anonymous flier they sent out.

In addition, we are (and for the past year have been) updating the city's sensitive lands ordinance as recommended by the citizen's advisory committee. The Tavaci development will be subject to the provisions of this ordinance including restrictions and mitigations related to geologic attributes of the property, which will dictate specific compliance associated with foothill development.

In the coming weeks and months, the Planning Commission will hold public hearings to solicit public input prior to making a recommendation to the City Council. The City Council will also take public comment prior to making our decision. If we approve the new ordinance, the developer must then apply for a general plan amendment and for rezoning to that ordinance. The general plan amendment and rezoning will require further public hearings with the Planning Commission and approval of the City Council. To be aware of progress on any of these related matters, we encourage you to go to the City website (<http://www.cottonwoodheights.utah.gov>) and sign up for notices of meetings. This will ensure you receive an electronic copy of the agendas for the City Council and Planning Commission in advance of the meetings.

Nothing has been approved yet, and no decisions are scheduled. We invite your comments and participation in this defined process. Our intent and goals are to achieve

the best outcomes possible for our citizenry while balancing the rights of all property owners. We welcome constructive public dialog. However, anonymous fliers misrepresenting the facts tend to undermine the credibility and effectiveness of such public dialog. Our citizens expect direct and honest communication from City officials. The same should be expected of those who oppose City initiatives. We ask that you take the time to become familiar with the specifics of what is actually being proposed before taking a position of opposition based on the premature and inaccurate information in the flier you received.

For over five years, the City has gone to great lengths in being open and transparent in conducting the city's business. Our track record in this regard is discoverable and reflects those efforts. We see no reason to change that now. Should you have further questions, we would welcome your call or e-mail.

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